

**House Study Bill 47 - Introduced**

SENATE/HOUSE FILE \_\_\_\_\_  
BY (PROPOSED DEPARTMENT OF  
INSPECTIONS AND APPEALS  
BILL)

**A BILL FOR**

1 An Act relating to the transfer of assets under the Medicaid  
2 program.

3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 249F.1, Code 2013, is amended by adding  
2 the following new subsection:

3 NEW SUBSECTION. 01. *a.* "*Fair consideration*" means full  
4 and adequate consideration which is, under all circumstances,  
5 equivalent to the value of the property transferred and which  
6 is honest, reasonable, and free of suspicion. A determination  
7 of fair consideration is separate and distinct from and  
8 independent and exclusive of any prior value determination  
9 relating to the medical assistance application or ongoing  
10 medical assistance participation of the transferor.

11 *b.* For the purposes of determining fair consideration  
12 in transfers of a life estate or remainder interests, the  
13 determination shall be made in accordance with rules adopted  
14 by the department of human services pursuant to chapter 17A.  
15 The rules shall specify the computation to be utilized in such  
16 determination, which shall be based on the program operations  
17 manual system life estate table published by the United  
18 States social security administration, and shall not include  
19 subjective considerations such as the health and personal  
20 circumstances of the life estate holder.

21 Sec. 2. Section 249F.1, subsection 2, paragraph a, Code  
22 2013, is amended to read as follows:

23 *a.* "*Transfer of assets*" means any transfer or assignment  
24 of a legal or equitable interest in property, as defined in  
25 section 702.14, from a transferor to a transferee for less  
26 than fair consideration, made within five years prior to the  
27 application for medical assistance by the transferor, while  
28 the transferor is receiving medical assistance, or within  
29 ~~five years prior to application for medical assistance by~~  
30 ~~the transferor~~ after the transferor is no longer receiving  
31 medical assistance but has an existing medical assistance  
32 debt. Any such transfer or assignment is presumed to be made  
33 with the intent, on the part of the transferee; transferor;  
34 or another person acting on behalf of a transferor who is an  
35 actual or implied agent, guardian, attorney-in-fact, or person

1 acting as a fiduciary, of enabling the transferor to obtain or  
2 maintain eligibility for medical assistance or of impacting  
3 the recovery or payment of a medical assistance debt. This  
4 presumption is rebuttable only by clear and convincing evidence  
5 that the transferor's eligibility or potential eligibility for  
6 medical assistance or the impact on the recovery or payment  
7 of a medical assistance debt was no part of the reason of  
8 the transferee; transferor; or other person acting on behalf  
9 of a transferor who is an actual or implied agent, guardian,  
10 attorney-in-fact, or person acting as a fiduciary for making  
11 or accepting the transfer or assignment. A transfer of assets  
12 includes a transfer of an interest in the transferor's home,  
13 domicile, or land appertaining to such home or domicile  
14 while the transferor is receiving medical assistance, unless  
15 otherwise exempt under paragraph "b".

16 Sec. 3. Section 249F.1, subsection 2, paragraph b,  
17 subparagraph (5), Code 2013, is amended by striking the  
18 subparagraph.

19 Sec. 4. Section 249F.2, Code 2013, is amended to read as  
20 follows:

21 **249F.2 Creation of debt.**

22 A transfer of assets creates a debt due and owing to the  
23 department of human services from the transferee in an amount  
24 equal to medical assistance provided to or on behalf of the  
25 transferor, on or after the date of the transfer of assets, but  
26 not exceeding the fair ~~market value of~~ consideration of the  
27 assets at the time of the transfer.

28 EXPLANATION

29 This bill relates to transfers of assets under the medical  
30 assistance (Medicaid) program.

31 The bill defines "fair consideration" for the purposes of  
32 determining whether an asset was transferred for less than the  
33 fair consideration amount.

34 The bill amends the definition of "transfer of asset" to  
35 include a transfer made after the transferor is no longer

1 receiving Medicaid, but has an existing Medicaid debt.  
2 The bill eliminates, as an exception to the definition  
3 of a "transfer of asset", transfers of less than \$2,000 on  
4 an aggregated basis during the five-year period prior to  
5 application for medical assistance by the transferor.